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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

UNITED STATES OF AMERICA,)	Case No. CR 09-978(A)-JFW
)	
Plaintiff,)	<u>STATUS OF THE CASE</u>
)	
v.)	Trial Date: February 23, 2010
)	Trial Time: 8:30 a.m.
MARIA NELA MORENO,)	
)	
Defendant.)	
)	

Plaintiff United States of America, by and through its attorney of record, the United States Attorney for the Central District of California, respectfully notifies this Court of the filing of a first superseding indictment in the above-referenced case.

This status is based upon the first superseding indictment, a courtesy copy of which is attached as Exhibit A, the attached

Memorandum of Points and Authorities, the declaration of Jonathan T. Baum, and the files and records in this case.

DATED: February 12, 2010

Respectfully submitted,

GEORGE C. CARDONA
Acting United States Attorney

CHRISTINE C. EWELL
Assistant United States Attorney
Chief, Criminal Division

/s/

JONATHAN T. BAUM
Trial Attorney, Fraud Section
United States Department of Justice

Attorneys for Plaintiff
United States of America

MEMORANDUM OF POINTS AND AUTHORITIES

Defendants Ajibola Sadiqr ("Sadqir") and Maria Nela Moreno ("Moreno") (collectively, "defendants") are charged with conspiracy to commit health care fraud, in violation of 18 U.S.C. § 1349; and health care fraud, in violation of 18 U.S.C. §§ 1347 and 2(b). On January 27, 2010, Sadiqr pleaded guilty to count one of the indictment, and is scheduled for sentencing on April 12, 2010. Currently, Moreno is scheduled for trial on February 23, 2010.

On February 12, 2010, a federal grand jury returned a first superseding indictment in this case. The first superseding indictment is identical to the initial indictment except that it corrects the claim submission dates alleged in counts five and six from October 14, 2008, to January 28, 2008. (Declaration ("Decl.") of Jonathan Baum, ¶ 3(a); Exhibit A.) The first superseding indictment also contains minor stylistic changes to the caption of the indictment and paragraphs 3, 9, and 17(a). (Baum Decl., ¶ 3b.) As the first superseding indictment is nearly identical to the initial indictment, the United States submits that the filing of the first superseding indictment does not require a continuation of defendant Moreno's February 23, 2010, trial date. See United States v. Rojas-Contreras, 474 U.S. 231, 233, 236-37 (1985) (Speedy Trial Act "does not require that the 30-day trial preparation period be restarted upon the filing of a superseding indictment"; defendant was not prejudiced by superseding indictment filed four days before trial which

1 corrected date of defendant's prior conviction to December 7 from
2 December 17); United States v. Flores-Sanchez, 477 F.3d 1089,
3 1091-92 (9th Cir. 2007) (commencement of defendant's trial one
4 day after arraignment on superseding indictment did not violate
5 defendant's Speedy Trial rights); United States v. Wallace, 800
6 F.2d 1509 (9th Cir. 1986) ("The Speedy Trial Act . . . does not
7 require that the 30-day trial preparation period begin anew up
8 the filing of a substantially similar superseding indictment.")

9 Respectfully submitted,

10 GEORGE C. CARDONA
11 Acting United States Attorney

12 CHRISTINE C. EWELL
13 Assistant United States Attorney
Chief, Criminal Division

14 /s/
15 JONATHAN T. BAUM
16 Trial Attorney, Fraud Section
United States Department of Justice

17 Attorneys for Plaintiff
18 United States of America
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DECLARATION OF JONATHAN T. BAUM

I, Jonathan T. Baum, declare as follows:

1. I am a Trial Attorney with the United States Department of Justice, and I am assigned to the prosecution of United States v. Maria Nela Moreno, CR 09-978(A)-JFW.

2. On February 12, 2010, a federal grand jury returned a first superseding indictment in the above-referenced case, a courtesy copy of which is attached as Exhibit A.

3. The United States sought the first superseding indictment for the following reasons:

a. To correct the claim submission dates in counts five and six from October 14, 2008, to January 28, 2008.

b. The United States also made minor stylistic changes to the caption of the indictment, and paragraphs 3, 9, and 17(a). Other than these changes, the first superseding indictment is identical to the initial indictment.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration is executed in Los Angeles, California, this 12th day of February 2010.

/s/
JONATHAN T. BAUM